

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:	
REVIEW OF COGENERATION AND SMALL POWER PRODUCTION RULES [199 IAC CHAPTER 15]	DOCKET NO. RMU-2016-0006

REPLY COMMENTS

The Office of Consumer Advocate (“OCA”), a division of the Iowa Department of Justice, submits these reply comments.

OCA agrees with MidAmerican Energy Company (MidAmerican) that “the Board’s fundamental principle with respect to these interconnection rules should be the development of standards that provide for the highest level of safety and rules that ensure the integrity and reliability of the electric system.”

199 IAC 15.1 (Definitions)

MidAmerican Energy Company recommends that the definition of “disconnection device” in amended rule 15.1 be clarified. OCA does not oppose the proposed language clarifying the definition of “disconnection device.” MidAmerican’s proposal goes further and proposes different terminology “customer-sited private generation” to refer to distributed generation facilities. The term “distributed generation” is defined in Iowa Code § 476.58. OCA does not support the different terminology recommended by MidAmerican because the term “private generation facility” is not defined, differs from the language in section 476.58, and could be confusing.

Interstate Power and Light Company (IPL) proposes several changes to the Definitions subsection 15.1. IPL's proposed definition of "distributed generation facility" is not objectionable. OCA does not support the other proposed changes at this time because IPL did not offer sufficient explanation or rationale to support these changes.

199 IAC 15.4 (Rate-regulated electric utility obligations under this chapter regarding QFs)

IPL proposes to delete the following language in 199 IAC 15.4(4) "to reflect that transmission charges are managed by qualifying facilities and in accordance with MISO rules."

The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses ~~and shall not include any charges for transmission.~~

OCA opposes this change. IPL does not offer sufficient explanation for the proposed change. OCA is concerned that the proposed amendment could result in the QF being subject to duplicative or unwarranted transmission charges.

199 IAC 15.5 (Rates for purchases from QFs by rate-regulated utilities)

IPL proposes the following additional language in 199 IAC 15.5(4) "for purposes of clarity":

To the extent, the rate-regulated electric utility's avoided cost materially changes since its most recent informational avoided cost filing with the Board, the rate-regulated electric utility shall not be obliged to pay more than the then-representative avoided cost.

The proposed change would allow IPL to negotiate PURPA contract terms based on new avoided cost information without updating the information or the standardized PURPA rates on file with the Board. Iowa utilities have traditionally used the avoided cost information from their PURPA Reports as the basis for proposing standard avoided cost tariff rates for QFs with a capacity of 100 kW or less, pursuant to 199 IAC 15.5(3). However, this information is potentially subject to

change by the Board in approving final tariff rates, based on evidence presented by the utility and other parties.¹ A utility may be required to update its PURPA report based on new and updated avoided cost information presented by the utility or other parties. It would be inconsistent with this process to permit a utility to unilaterally implement revised avoided cost rates based on a material change in avoided costs. The avoided cost information and standardized rates are intended to help a prospective QF evaluate the feasibility of distributed generation. If IPL's avoided cost materially change since its most recent informational avoided cost filing and it wishes to utilize these changes in PURPA contracts, IPL must first file this information with the Board and seek to update its PURPA standardized tariff rate.

IPL proposes the following language in 199 IAC 15.5(6) "to further align with PURPA and reflect additional considerations important to the valuation of distribution":

- a. The prevailing **wholesale market** rates for **energy or** capacity or **both energy** that are qualified to satisfy resource adequacy obligations on any interstate power grid with which the utility is interconnected.
- b. The incremental energy costs or capacity costs of the utility itself or **wholesale market utilities-rate** in the interstate power grid with which the utility is interconnected, **including consideration for locational value and a correlation of system output and peak load.**

While wholesale rates for energy and capacity and incremental costs of such resources can be relevant considerations in the determination of avoided cost, the current language is not so limited and allows a broader consideration of resources that may be more reflective of a utility's avoidable cost. For example, if a utility does not rely on short-term capacity markets for resource planning, then such wholesale market rates may not be particularly relevant in assessing

¹ *Midwest Renewable Energy Projects LLC v. Interstate Power and Light Co.*, Docket No. 199 IAC 15.3 (PURPA Section 210), "Order Requiring Amendment to PURPA Report and Tariffs at pp. 9-10 (IUB, Dec. 21, 2007).

a utility's avoidable costs. OCA supports the current language to accommodate these considerations.

199 IAC 15.10 Standards for interconnection, safety, and operating reliability

OCA agrees with the Environmental Law & Policy Center (ELPC) and Iowa Environmental Council (IEC) that the first step to remedy difficulties should be to provide written notice and a reasonable time to correct the problem—assuming safety concerns permit. OCA therefore suggests the following revision to proposed subrule 15.10(3), paragraph “f”: “An interconnection customer failing to comply with the foregoing requirements, after written notice and opportunity to comply whenever safety concerns permit, may be disconnected as provided in 199 IAC 20. The disconnection process details shall be provided in individual electric utility tariffs of the interconnection agreement.”

OCA similarly agrees with ELPC and IEC that non-compliance with the interconnection safety rules could be a reason to disconnect the interconnection service to the facility but not necessarily a reason to disconnect electric service to the customer's premises. A clarification to this effect may be helpful, perhaps as follows: “Disconnection shall be limited to the interconnection service to the facility, and electric service to the customer premises shall not be disconnected, unless disconnection of electric services to the customer premises is independently justified pursuant to 199—Chapter 20.”

ELPC and IEC oppose the “including but not limited to” language in proposed rule 15.10(7) on the ground it “goes beyond the statutory requirement.” OCA expresses no opinion at this time on exactly what information distributed generation facilities should be required to provide to local fire departments and no opinion on the merits of ELPC's and IEC's argument that the information should be standardized by rule. OCA concludes, however, that the Board

has ample statutory authority to require that information in addition to the statutory minimum be required. Iowa Code sec. 476.58(2) specifically grants rule-making authority to the Board and itself contains the words “included but not limited to.” If the concern is that local fire departments may place unreasonable demands on distributed generated facilities, the words “as required by” might be changed to, for example, “as reasonably required by.”

OCA supports the changes suggested by IPL to subrule 15.10(5) requiring that inspections and testing be performed at least every five years and that test reports and maintenance records be provided to the electric utility upon request. These suggested changes would help ensure public safety.

IPL suggests that subrule 15.10(3), paragraph “f,” be moved to or reinserted at the end of rule 15.10. Moving the language to end of the rule would give the provision a wider effect, in light of the limiting effect of the word “foregoing.” The proper sequencing of a new subrule would be 15.10(8), rather than 15.10(7) as stated by IPL. Alternatively, the Board may wish to change “foregoing requirements” to “requirements of this rule.”

199 IAC 15.11

IPL proposes language to 199 IAC 15.11(5) to reflect the use of bi-directional metering and advanced metering capabilities. IPL’s proposed amendment only pertains to bi-directional metering. OCA does not disagree with the proposed change, but would recommend that IPL’s proposed amendment also address the advanced metering capabilities that are available for customers who select time-of-use and seasonal rates.

199 IAC 15.19

OCA agrees with the Iowa Association of Electric Cooperatives (IAEC) that the ownership interest restrictions and eligibility criteria require greater clarity. OCA does not have specific suggestions at this time. OCA supports IAEC's suggestion that a Board-hosted workshop may be helpful on these issues. OCA shares IAEC's support for continuation of efforts to provide Board staff with sufficient resources to complete a thorough analysis of the statutes.

CONCLUSION

OCA appreciates the opportunity to provide the Board these comments addressing the proposed rule amendments in chapter 15 and urges the Board to further refine and amend the proposed rules as suggested herein. OCA will be pleased to participate in any further proceedings the Board may wish to conduct on these proposed rule amendments.

Respectfully submitted,

Mark R. Schuling
Consumer Advocate

/s/ Jennifer C. Easler
Jennifer C. Easler
Attorney

/s/ Craig F. Graziano
Craig F. Graziano
Attorney

1375 East Court Avenue
Des Moines, Iowa 50319-0063
Telephone: (515) 725-7200
E-mail: IowaOCA@oca.iowa.gov

OFFICE OF CONSUMER ADVOCATE